IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI

CRIMINAL MISCELLANEOUS APPLICATION NO. 28 OF 2002

Anthony Swami,
s/o Joikin Swami,
Indian National, married,
r/o Colvale, Cunchelim,
Bardez, Goa. ... Applicant.

versus

S T A T E
as represented by
Officer-In-Charge,
Mapusa Police Station,
Mapusa, Goa. ... Respondent.

Mr. J. P. D'Souza, Advocate for the Applicant.

Mr. A. P. Lawande, Public Prosecutor for the State.

CORAM: P. V. HARDAS, J.

DATED: 20TH FEBRUARY,2002.

ORDER

On receipt of information on 7th February, 2002, the Police searched the premises of the Applicant/Accused and found in his hut 50 kgs. of Ammonium Nitrate and 1000 explosive detonators. The Police also found two bundles of fuse coils and a gallon of kerosene. On these allegations, the Applicant was arrested for having committed an offence punishable under Section 4 of the Explosive Substances Act, 1908.

2. The Applicant, after his arrest, was produced before the Judicial Magistrate, First Class, Mapusa, on 8th February, 2002. The Applicant was in Police custody for 3 days and thereafter, since 11th February, 2002, the Applicant is remanded to Judicial custody.

3. The Applicant moved an application, being Bail Application No.52/2002 before the learned Sessions Judge,North Goa, Panaji, under Section 439 of the Code of Criminal Procedure for grant of Bail. The learned Sessions Judge, North Goa, Panaji, by his Order dated 12th February, 2002, rejected the Bail application of the Applicant on the ground that the offence alleged to have been committed by the Applicant is punishable with a term of imprisonment which may extend to 20 years with fine or imprisonment for 7 years. The learned Sessions Judge, North Goa, Panaji, also found that the Applicant hails from the State of Tamil Nadu and the complete permanent address of the Applicant in Goa was not available. The learned Sessions Judge, North Goa, Panaji, also found that the permanent address of the Applicant at his native place was also not known. The learned Sessions Judge, North Goa, Panaji, taking the overall view of the matter came to a conclusion that since the Applicant/Accused was not a resident of Goa and considering the seriousness of the allegations, the Applicant/Accused was not entitled to be released on Bail.

4. Mr. J. P. D'Souza, the learned Advocate appearing for the Applicant, has brought before me the ration card of the Applicant. The perusal of the ration card shows that the Applicant is a resident of Goa at

least since 1997. It is also contended before me that investigation, as far as the Applicant is concerned is practically over.

5. Mr. A. P. Lawande, the learned Public Prosecutor appearing for the State has opposed the grant of Bail on the ground that the Applicant, if released on Bail would not be available for trial. It is also urged before me by the learned Public Prosecutor appearing for the State that looking to the seriousness of the allegations, the Applicant does not deserve to be released on Bail.

6. After giving my anxious consideration to the rival submissions advanced before me, I am of the view that the investigation as far as the Applicant is concerned is almost completed. The explosives and the detonators have been seized and the Applicant has been interrogated by the Police. Since the Applicant is a resident of the State of Goa, I see no impediment in enlarging the Applicant on Bail on the following conditions;-

1. The Applicant shall be released on his furnishing a PR Bond in the sum of Rs.20,000/- with one surety in the like amount to the satisfaction of the Judicial Magistrate, First Class, Mapusa in Crime

No.27/2002 registered by the Police Station, Mapusa, for an offence punishable under Section 4 of the Explosive Substances Act,1908.

2. The Applicant shall not leave the State of Goa without the prior permission of the learned Sessions Judge, North Goa, Panaji.

3. The Applicant shall attend the Police Station daily from 9.00 a.m. to 1.00 p.m. for a period of one week from his release.

4. The Applicant shall make himself available for the purpose of investigation as and when required.

5. The Applicant shall not tamper or influence the prosecution witnesses.

6. The Applicant shall furnish to the Police Station, Mapusa, his permanent residential address at Goa. Any change in the address shall also be intimated to the Police.

7. On the above conditions, Criminal Miscellaneous Application No.28/2002 is allowed.

8. Hamdust granted.

(P. V. HARDAS)
JUDGE

RD.